

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE  
MINUTE ORDER**

BEFORE: A. KATHLEEN TOMLINSON  
U.S. MAGISTRATE JUDGE

DATE: 6/30/09  
TIME: 5:00 p.m.

*Kevin and Allison Hughes -v- Bank of America NA, CV -08-883 (JFB) (AKT)*

TYPE OF CONFERENCE: TELEPHONE CONFERENCE

APPEARANCES: Plaintiffs Christopher E. Kittell  
Defendant Thomas E. Stagg

THE FOLLOWING RULINGS WERE MADE:

1. Counsel contacted my Chambers today to address their dispute regarding two Rule 30(b)(6) deposition notices served by Plaintiff. The first notice, dated June 19, 2009, is for the deposition of a representative of non-party Suffolk County Federal Credit Union on June 30, 2009, on three topics and for documents responsive to two requests. The second notice, also dated June 19, 2009, is for the deposition of a specified representative of Defendant Bank of America on July 1, 2009, on 28 topics. *See* DE 68 (Def.'s June 30, 2009 Ltr. Mot. To Stay Depositions, to which the Notices of Deposition are annexed). After hearing from counsel for both parties, I made the following rulings:
  - a. The deposition of the Bank of America representative, noticed for July 1, 2009, is **STAYED**.
  - b. Plaintiff is directed to provide to Defendant the outstanding bank account numbers discussed today by **July 1, 2009 at noon**.
  - c. Defendant is to produce all outstanding documents to Plaintiffs by **July 16, 2009 at 5:00 p.m.** If Defendant fails to produce all of the required documents by this date, I will have no alternative but to impose sanctions on Defendant, pursuant to Rule 37, for each day that the documents are not produced.
  - d. Following Defendant's production of the outstanding documents, counsel shall work together to re-schedule the deposition of the Bank of America representative. This deposition must take place within thirty (30) days from Plaintiffs' receipt of the outstanding documents (*i.e.*, no later than August 17, 2009). If, after Defendant's production of these documents, either party believes that Bank of America's deposition should be stayed pending decision on Plaintiffs' Motion to Amend the Complaint (which will be fully briefed as of July 19, 2009), that party may file the appropriate letter motion. The letter motion must be filed within thirty (30) days from the date Defendant produces the outstanding documents to Plaintiffs.
2. During today's conference, I reminded the parties, as I have several times before, that, pursuant to Local Rule 37.3, before seeking judicial intervention on a discovery dispute, the parties are obligated to confer in good faith in an effort to resolve the dispute. If the parties cannot resolve the dispute among themselves, then they may seek judicial intervention by calling my Chambers,

with counsel for both parties on the line, at which time my law clerk will set up a telephone conference for the earliest available time. Before conducting such a telephone conference, I will require that the parties certify that they have complied with Local Rule 37.3 and the manner in which such compliance was achieved.

3. I note that Attorney Christopher E. Kittell has not filed a notice of appearance, despite this Court's Order dated March 17, 2009 [DE 41], granting the motion for his pro hac vice admission, which directed him to (i) register for ECF by March 31, 2009; (ii) "file a notice of appearance and ensure that he receives electronic notification of activity in this case[;]" and (iii) pay to the Clerks' Office the \$25 admission fee. Accordingly, by **July 17, 2009**, Mr. Kittell is to comply with all of the directives contained in the March 31, 2009 Order.

SO ORDERED.

/s/ A. Kathleen Tomlinson  
A. KATHLEEN TOMLINSON  
U.S. Magistrate Judge